

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-363648-D2

Issued to: ALBERT WILSON KEANE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ALBERT WILSON KEANE

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 4 June, 1954, an Examiner of the United States Coast Guard at New Orleans, Louisiana, suspended Merchant Mariner's Document No. Z-363648-D2 issued to Albert Wilson Keane upon finding him guilty of misconduct based upon two specifications alleging in substance that while serving as Chief Electrician on board the American SS STEEL DIRECTOR under authority of the document above described, on 9 March, 1954, while said vessel was in the port of Singapore, Malaya; on 10 March, 1954, while at sea; on 11 and 13 through 18 March, 1954, while at Djakarta, Java; on 10 May, 1954 while at Houston, Texas; and on 12 and 13 May, 1954, while at New Orleans, Louisiana, he failed to perform his lawful duties by reason of intoxication (First Specification); and on 12 March, 1954, while said vessel was at Djakarta, Java, he was absent from the ship and his duties without proper authority (Second Specification).

Since Appellant failed to put in an appearance after adequate notice on two different occasions, the hearing was conducted in absentia. The Examiner entered a plea of "not guilty" to the charge and each specification on behalf of the Appellant.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence certified copies of entries in the Official Logbook of the STEEL DIRECTOR. The Investigating Officer then rested his case.

At the conclusion of the hearing, having heard the argument of the Investigating Officer, the Examiner announced his findings and concluded that the charge had been proved by proof of the two specifications. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-363648-D2 and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority, for a period of six months.

From that order, this appeal has been taken, and it is urged that the log entries are exaggerated and inaccurate; the times in the log entries were other than Appellant's duty hours; Appellant made certain the Second Electrician was willing to work overtime; neither the Master nor the Chief Engineer ever reprimanded Appellant and he had no breakdown of electrical equipment; the whole affair is the result of ill feeling and lack of cooperation on the part of the officers; and going to sea is Appellant's only means of livelihood.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On the dates mentioned below, Appellant was serving as Chief Electrician on board the American SS STEEL DIRECTOR and acting under authority of his Merchant Mariner's Document No. Z-363648-D2.

While the ship was at Singapore, Malaya, on 9 March, 1954, Appellant was under the influence of intoxicating liquors and unable to perform his duties from 0800 to 1700.

While the ship was at sea on 10 March, 1954, Appellant was under the influence of intoxicating liquors and unfit to perform his duties. He could not attend the fire and boat drills conducted on the ship.

While the ship was at Djakarta, Java, from 11 March, 1954, to 18 March, 1954, inclusive, Appellant was unfit and unable to perform his duties since he was under the influence of intoxicating liquors. On 12 March, Appellant was, in addition, absent from his station without permission.

While the ship was at Houston, Texas, on 10 May, 1954, and at New Orleans, Louisiana, on 12 and 13 May, 1954, Appellant was under the influence of intoxicating liquors as a result of which he was unable to perform his duties.

There is no record of prior disciplinary action having been taken against Appellant during approximately nine years at sea.

OPINION

The evidence does not support Appellant's contentions on appeal. The above Findings of Fact are supported by the entries contained in the Official Logbook of the STEEL DIRECTOR and Appellant failed to take advantage of the opportunity to appear at the hearing in order to attempt to refute the prima facie case made out by these log entries.

Appellant had responsible duties as the Chief Electrician of the ship and he had no right to avoid assuming his responsibilities even if the Second Electrician agreed to work overtime in order to do the work which Appellant was hired to do. The log entries disclose that Appellant was under the influence of intoxicating liquors for ten consecutive days at one time during the voyage - 9 March through 18 March. Unquestionably, this constituted misconduct in the nature of neglect of duty. The fact that there was no breakdown of electrical equipment during the periods when Appellant would not have been in fit condition to repair the equipment does not absolve him from fault.

But in view of Appellant's prior unblemished record, the order will be modified.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 4 June, 1954, is hereby modified to impose an outright suspension of three (3) months and an additional suspension of three (3) months which will not become effective provided no charge under R. S. 4450, as amended (46 U. S. C. 239), is proved against Appellant for acts committed within twelve(12) months of the termination of the three (3) months outright suspension.

If this probation is violated, the order for which probation was granted shall become effective with respect to all Merchant Mariner's Documents, certificates, and licenses here involved, and also any Merchant Mariner's Document, certificate, or license acquired by Appellant during the period of probation, at such time as designated by any Coast Guard Examiner finding the violation, and may be added to or form a part of any additional order which is entered by such Examiner.

A. C. Richmond
Vice Admiral, U. S. Coast Guard
Commandant

Dated at Washington, D. C., this 26th day of August, 1954.